



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/578,430	05/05/2006	Kazumi Kodama	4829-0108PUS1	2819
2292 7590 09/30/2008 BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747				
EXAMINER				
CHIN, HUI H				
ART UNIT		PAPER NUMBER		
4131				
NOTIFICATION DATE		DELIVERY MODE		
09/30/2008		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

Office Action Summary

Application No.

10/578,430

Applicant(s)

KODAMA ET AL.

Examiner

HUI CHIN

Art Unit

4131

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SF/88)
Paper No(s)/Mail Date 5/5/2006, 6/1/2007.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Objections

Claim 1 is objected to because of the following informalities: it does not end in a period. Appropriate correction is required.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-2, 4-5, and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Osen et al. (US 2003/0144400).

Osen et al. disclose an aqueous elastomer coating composition which contains a) a polymer latex composed of an elastomer such as fluorine rubber, hydrogenated or carboxylated acrylonitrile-butadiene rubber, acrylonitrile-butadiene rubber, and/or

acrylate rubber, b) mineral fillers such as silicates/silicon oxides, silicic acids, pyrogenic silicic acids and/or carbonates, oxides, hydroxides, metal cations having a valence of 2 to 4, c) crosslinking chemicals such as amine-, peroxide-, bisphenol- or sulfur-based crosslinking systems including dibenzoyl peroxide, d) optionally dispersants and/or emulsifiers, organic and/or inorganic pigments, foam suppressants, anti-aging agents, heat sensitization agents, thickeners, wetting agents, propellants, foam stabilizers, coagulants, thixotropy agents, acid scavengers such as MgO, Ca(OH)₂, ZnO, PbO or hydrotalcite as well as adhesive agents, and e) water, preferably in demineralized form as a dispersion medium of the elastomer coating compositions (paragraphs 0009 – 0014).

The limitations of claim 2 can be found in Osen on page 2, paragraph 0028, where it discloses the composition contains 1-6 phr of peroxide-crosslinking system.

The limitations of claim 4 can be found in Osen on page 2, paragraph 0028, where it discloses the composition contains 0-20 phr of ZnO.

The limitations of claim 5 can be found in Osen on page 4, paragraph 0052, where it discloses the composition contains 0.3-9 phr of accelerator.

The limitations of claim 8 can be found in Osen on page 2, paragraph 0028, where it discloses the composition can be used for dipping process.

Osen et al. does not disclose that the organic crosslinking agent, such as dibenzoyl peroxide, satisfies formulae (1) and (2) of claim 1. However, Osen et al. discloses that the composition contains dibenzoyl peroxide which is the same organic peroxide described in the specification at page 9 (three lines from the bottom), page 20,

Table 1 and page 23, Table 2. Identical compounds cannot have mutually exclusive properties. Therefore, the dibenzoyl peroxide disclosed by Osen et al. is assumed to inherently meet the inequality recited in claim 1. See MPEP 2112.

Thus, the present claim is anticipated by the disclosure of Osen et al.

3. Claims 1-3 are rejected under 35 U.S.C. 102(e) as being anticipated by Toya et al. (US 2007/0112141).

Toya et al. disclose a rubber composition comprising: a copolymer rubber, a polymer selected from methyl acrylate and methyl methacrylate, and an ester compound (paragraph 0009-0012). The rubber is the conjugated diene monomer (paragraph 0022). Toya et al. teach that a vulcanizable rubber composition comprising the rubber and a vulcanizing agent (paragraph 0013). Toya et al. also disclose that "as the vulcanizing agent, sulfur-containing vulcanizers and organic peroxides are generally used".

The limitations of claims 2 and 3 can be found in Toya on page 4, paragraphs 0049 and 0052, where it discloses the composition contains 0.1 to 10 parts by weight of the vulcanizing agent.

Toya et al. further disclose the use of benzoyl peroxide as the vulcanizing agent (paragraph 0051), which would meet the formulae set forth in claim 1 for the same reasons as in the rejection over Osen et al. Thus, the present claim is anticipated by the disclosure of Toya et al.

Claim Rejections - 35 USC § 103

4.. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Osen et al. (US 2003/0144400).

The disclosure of Osen is adequately set forth in paragraph 2 and is incorporated herein by reference.

The difference between the present claim and the disclosure of Osen is the requirement of a specific copolymer.

Osen et al. do disclose the copolymer. However, Osen et al. are silent on the relative amount of monomer and comonomer. The relative amount will determine the properties of the copolymer. The case law has held that "a particular parameter must first be recognized as a result-effective variable, i.e., a variable which achieves a recognized result, before the determination of the optimum or workable ranges of said variable might be characterized as routine experimentation". *In re Antoine*, 559 F.2d 618, 195 USPQ 6 (CCPA 1977). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to achieve the relative amount of

monomer and comonomer via the routine optimization process and thereby obtain the present invention.

6. Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Osen et al. (US 2003/0144400) as applied to claim 1 above, and further in view of Nile et al. (US Patent 5,399,400).

The disclosure of Osen is adequately set forth in paragraph 2 and is incorporated herein by reference.

The difference between the present claim and the disclosure of Osen is the requirement of the composition to be made into glove.

Nile et al. disclose an elastomer to be subjected to dip process to make the glove (col. 3 lines 22-23). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the glove with the expected success because Nile et al. demonstrate that the dip process of the elastomer can be used to make the glove.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to HUI CHIN whose telephone number is (571)270-7350. The examiner can normally be reached on Monday to Friday; 8:00am - 5:00pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Sample can be reached on 571-272-1376. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/David R. Sample/
Supervisory Patent Examiner
Art Unit 4131

HC